



File Code: 1570 (218)

#15-01-00-0001

Date: October 17, 2014

Michael Garrity  
Lead Objector  
Alliance for the Wild Rockies  
PO Box 505  
Helena, MT 59624

Dear Mr. Garrity:

It is my understanding that you have erroneously been sent a letter (addressed to "Dear Objector") accepting your objection, filed on behalf of Alliance for the Wild Rockies and Native Ecosystems Council, regarding the Environmental Assessment (EA) and Draft Decision Notice (DDN) prepared by Forest Supervisor Melany Glossa for the Trapper Creek project on the Beaverhead-Deerlodge National Forest. This proposed action is subject to the pre-decisional administrative review procedures found at 36 CFR Part 218, Subparts A and B. This is a complicated situation due to previous litigation, court direction, and a new analysis. In consultation with our Office of General Council, we have discovered your objection does not meet the requirements of 36 CFR 218.8(d)(5) and (6) and 36 CFR 218.10(a)(5).

You make the case that you should have standing to object based on comments submitted during the 2010 scoping period for this project. My staff has reviewed your objection and the project history. Here is a brief synopsis of the Trapper Creek project:

- Originally scoped in February 2010. The provisions of 36 CFR 215 applied.
- AWR submitted feedback during scoping in March 2010.
- AWR submitted comments in January 2011 on the 2010 EA.
- AWR submitted an appeal in April 2012 of the March 5, 2012 decision.
- AWR submitted a complaint against the decision in December 2012.
- The March 2012 decision was withdrawn by the Forest Supervisor (David Myers) in April 2013, of which AWR was informed.
- In April 2014 the Forest initiated a comment period for a new EA under the provisions of 36 CFR 218, of which AWR was informed.
- At the beginning of the comment period the new EA was made available to the public on the Forest web site.
- The Forest did not receive comments from AWR on the April 2014 EA.
- In August 2014 the objection period started and the EA and DDN were sent out to interested parties, including AWR.
- At the beginning of the objection period the EA and the DDN were made available to the public on the Forest website.
- In September 2014 AWR contacted Forest Supervisor Melany Glossa indicating they never received a copy of the EA or DDN. The Forest Environmental Coordinator confirmed documents were sent to AWR at the address on file. The Forest Supervisor



confirmed the address for AWR had not changed. Other parties included in the mailing did submit comments. None of the mailings were returned “undeliverable”.

Based on my review of the project history, you are correct in determining you have standing as it was the Forest’s intent to provide standing to object under 36 CFR 218 for anyone who responded during scoping—which you did. While you have standing to file an objection, there is the matter of whether your objection meets the requirements of 36 CFR 218.

As with past objections you have submitted, you failed to provide a statement that demonstrates the connection between prior specific written comments on the particular proposed project or activity and the content of the objection (unless the objection concerns an issue that arose after the designated opportunity for comment) as required by 36 CFR 218.8(d)(6). 36 CFR 218.8(c) states that issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment. You did submit a letter during the scoping period.

Comments submitted in January 2011 on the 2010 Trapper Creek EA no longer apply as the EA and decision were withdrawn and interested parties were informed (April 16, 2013 letter from Forest Supervisor Myers) a “new environmental analysis” and a “new decision to conduct any future activities associated with the project” would be completed. You did not submit comments on the new, April 2014 EA. Therefore, your issues are limited to those raised during scoping. You fail to demonstrate how the issues raised in your objection are based on issues you raised in scoping. You include the following statement in your objection: “I raised this issue in my last appeal of the Trapper Creek project.” Your appeal is moot as it applied to a decision that was withdrawn and issues raised in the appeal were not submitted in response to an opportunity for public comment for the 2014 EA and DDN (36 CFR 218.5).

Further review of your objection found that, similar to your previously submitted objections (Little Belt Hazard Tree Removal, Lewis & Clark NF; Blackfoot Travel Plan and Associated Forest Plan Amendments, Helena NF; East Reservoir, Kootenai NF; South Bridger Interface, Gallatin NF), it does not meet the requirements of 36 CFR 218.8 for the following reasons:

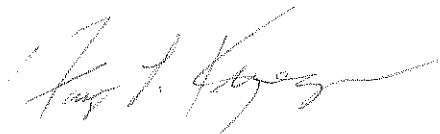
- 1) You did not include all the documents you cited with the objection (36 CFR 218.8(b)). Furthermore, you did not even include a list of references cited so we cannot determine the title of studies/articles you are referring to.
- 2) It is evident that you have not included a clear description of those aspects of the proposed project, as analyzed in 2014, that you believe are in violation of law, regulation or policy, including specific issues related to the proposed project (218.8(d)(5)). I conducted a thorough content analysis of your objection and found that you merely resubmitted the appeal filed in April 2012, with some sections deleted and references to the DN updated to “DDN”. Not once did you cite to information in the 2014 EA or 2014 DDN for the Trapper Creek project.

You continue to make broad, vague allegations that the analysis is not sufficient or best science was not used. However, you do not demonstrate how or why the analysis is insufficient, you do not articulate why the science you reference is more appropriate than the science considered, and/or you do not even identify what you believe the best science is in some instances. While your objection issues may appear to have some relationship to the proposed action (i.e. you raise an issue regarding lynx because lynx habitat is found within the project area and may be affected by the proposed actions), your objection issues are not specific to the analysis or draft decision rationale for the applicable project. Instead, you continue your practice of copying and pasting comments and objection issues from numerous past projects across Region 1 and your past Trapper Creek appeal. By not citing to the analysis or draft decision rationale specific to a project, you are not demonstrating how the analysis or the rationale are inadequate. Therefore, I find you are not meeting the requirement to include supporting reasons for the responsible official to consider or for the objection reviewing officer to review (36 CFR 218.8(d)(5) and (6); 218.10(5)).

In David E. Schmid's June 30, 2014 letter to you, he noted that, given your continued refusal to meet the requirements of 36 CFR 218 when submitting objections, your recycling of content submitted in your previous appeals/objections that is not specific to the project being objected to, and your declining our offers to meet, it seems your organization is not interested in participating in the objection process as a means of improving and informing Forest Service land management decisions. He also informed you in the June 30<sup>th</sup> letter that he was instructing the regional staff to thoroughly apply the requirements of 36 CFR 218 for all future objections submitted on behalf of Alliance for the Wild Rockies as we believe you have been sufficiently notified as to what is required to meet the 36 CFR 218 requirements. These instructions were followed and your objection to the South Bridger Interface project was dismissed because it still did not meet the 36 CFR 218 requirements.

As demonstrated in numbers 1 and 2 above, the Trapper Creek objection also does not meet the requirements 36 CFR 218 requirements. I am, therefore, setting your objection aside from review in accordance with 36 CFR 218.10(5).

Sincerely,



FAYE L. KRUEGER  
Regional Forester

cc: Melany I Glossa, Jan M Bowey, Ray G Smith